

7:03 p.m. meeting opened. The Hall, 2<sup>nd</sup> Floor, Memorial Hall Library, Elm Square.  
Present were: Anderson (Chair), McDonough (Clerk), Jeton, Brown, Ranalli

Petition No: 3815

Petitioner: Warren

Premises Affected: 7 Reservation Rd

Present were: Anderson (Chair), McDonough (Clerk), Jeton, Brown, Ranalli

Attorney Mark B. Johnson represented the Petitioners' request to add an addition to the side of their house 13.31' from the side lot line. The house is in the SRB District. The owners previously believed their lot conformed to the 30,000 square foot minimum area; a recent survey revealed it has only 28,911 sq. ft. They are requesting relief for the side setback for the addition & the continued existence of the existing dwelling on an undersized lot.

Attorney Johnson argued the irregular shape & topography of the lot present a hardship. If they were to site the addition in an alternative location, the usable back yard would be diminished. Another reason for the location of the proposed addition is to buffer noise from the nearby railroad. Mr. Warren pointed out that the rear yard slopes up to a small hill.

The Board noted the inconsistencies between the plot plan submitted with the application and the plan presented at the public hearing, as well as the lack of dimensions for the proposed addition. The Board discussed alternatives so that the addition would conform to the minimum setbacks. Petitioners stated that the configuration of the rooms on the first floor is such that an alternative location for the addition would not be feasible.

The Board has received letters supporting the Warrens' proposal from Jay & Krista Stevens, 115 Red Spring Road, and Michael Gillis, owner of the abutting property at 1-3-5 Reservation Road. McDonough made a motion to close the public hearing. Jeton seconded the motion & the Board voted unanimously to close the hearing and then proceeded to deliberate the matter. Anderson asked for a motion to grant a variance to legalize the non-conforming area and allow the proposed addition to be built 13.31' from the side lot line but none was forthcoming. McDonough then made a motion to deny the side setback variance. Brown seconded the motion. The majority of the Board felt that there are alternative locations for the addition and that there is insufficient hardship to grant the variance for the side setback. Anderson suggested that Petitioners construct a conforming addition or withdraw the request for a side setback variance without prejudice. Johnson requested to withdraw without prejudice the setback variance. McDonough withdrew the original motion to deny the requested variance. Brown seconded the motion & the Board voted unanimously to withdraw the motion to deny. McDonough made a motion to allow the petitioner to withdraw without prejudice the request for the side yard variance. Ranalli seconded the motion & the Board voted unanimously to allow the withdrawal without prejudice the requested setback variance. Attorney Johnson then asked to continue the request for continued existence of the house on a lot with insufficient area to the Board's December meeting. The Board then reopened and continued the public hearing on the matter of insufficient area to its December meeting.

Petition No: 3811

Petitioner: Chartier

Premises Affected: 108 Rattlesnake Hill Rd

Present were: Anderson (Chair), McDonough (Clerk), Jeton, Batchelder, Ranalli

Jeff Chartier represented himself & his wife in their request for a variance to construct a new single family dwelling on a lot with insufficient area. Chartier granted the Board an extension until 12/18/08 to act on the petition / file a decision. Chartier explained that they own two lots, one of which has a single family house on it that they occupy and is behind the lot fronting on Rattlesnake Hill Road. The rear lot has no frontage. The existing house was built in 1932. They wish to build a new house for his mother-in-law. It will be outside the 100' buffer zone. Chartier explained that they pay taxes on two lots. The Board determined in their discussion with Mr. Charier that they have owned both lots for four years, they were purchased together and owned jointly by the previous owners (Quinn's) and have been in common ownership as far back as 1836 when the lots were created. There has never been a house on the front lot. The Board asked for clarification of which house was proposed since there were two plans in the packet. Chartier stated that they were representative plans, but they would build a house to fit within the setbacks. The Board explained to Chartier that they could build an in-law unit for his mother-in-law on the back lot and keep the front lot. Anderson suggested consulting a lawyer & read section 6 of Chapter 40A in part about side setbacks. He also suggested that if the lots were combined, the existing non-conforming setback of the existing house would be rendered conforming. He added that he didn't believe that the two lots are legally separate any more. Anderson suggested withdrawing without prejudice and speaking with a lawyer. Chartier requested to withdraw without prejudice. McDonough made a motion to allow the withdrawal without prejudice. Batchelder seconded the motion & the Board voted (5-0) to allow the withdrawal without prejudice.

#### Discussion Item:

Anderson announced that Selectman Alex Vispoli, liaison to the Zoning Board, was present & wished to address the Board. Vispoli introduced himself & reached out to the Board stating that if anything is needed from the Selectmen that the Board can call him. He informed the Board that he recently received a highly unusual letter, addressed to three parties (including the Selectmen, the ZBA & the Town Manager), which he wanted to discuss a joint response to. He noted that the Selectmen asked him to reach out & spoke with Carol McDonough about this a few weeks ago.

Anderson informed Vispoli that certain Board members routinely recuse themselves from certain issues due to conflict of interest. He recused himself from all telecommunication issues & Brown recuses himself from Fosters Pond issues). Vispoli informed the Board that the letter concerned telecommunication issues. Anderson recused himself.

Vispoli suggested to the remaining Board members that the Board of Selectmen, the Town Manager & the ZBA meet to talk about a joint response to the letter. Jeton pointed out that Vispoli's visit is listed last on the agenda. McDonough felt that it they could appoint a member to meet with Vispoli & Town Manager quickly. Anderson left the room. The board discussed the suggestion, feeling it is a good idea. McDonough asked Jeton to be the Board member to meet with Selectman Vispoli & the Town Manager. Jeton agreed. Jeton suggested that Town Counsel also be present. Anderson reentered the room.

Petition No: 3806

Petitioner: Helman

Premises Affected: 106 Main Street

Present were: Anderson, Brown, Batchelder

Anderson explained that the fourth Board member was unable to attend this meeting & therefore they could not hold the continued public hearing. He suggested continuing to the December meeting. Helman agreed to continue to the December meeting. Brown made a motion to continue to the 12/4/08 meeting. The Board voted unanimously to continue to the December meeting.

Petition No: 3813

Petitioner: Wilson

Premises Affected: 5 Cedar Rd

Present were: Jeton (Chair), Batchelder (Clerk), Ranalli, McDonough, Brown

This is a continued public hearing. Jeton noted that Associate Member Ranalli was absent from the site view, but that she viewed it on their own. Brown asked Mr. Wilson for the revised certified plot plan. Wilson submitted a plan prepared by Abagis, dated 10/30/08, as well as another ZBA decision related to the Marson property. Jeton noted that there have been nine other similar approvals in the neighborhood. Brown made a motion to close the public hearing. Ranalli asked for public comments/questions. There being none, Batchelder repeated the motion to close the public hearing. McDonough seconded the motion & the Board voted (5-0) to close the hearing. Ranalli commented that she is inclined to approve it because neighbors support it, the Board has the certified plot plan & the encroachment is minimal. Brown added that there is no reasonable alternative location for the addition. Brown made a motion to grant a special permit. McDonough seconded the motion & the Board voted (5-0) to grant a special permit. Brown will write the decision. The Board voted to deny the variance as moot.

Petition No: 3814

Petitioner: Carolina Properties

Premises Affected: 407 South Main Street

Present were: Anderson, McDonough, Jeton, Brown, Ranalli

Gerard Welch represented himself in his request for a variance &/or a special permit to raze an existing singly family dwelling and construct a new single family dwelling. He showed the Board photographs of the damaged house which has compromised the structural integrity. Welch explained that the existing house, located in the SRC District, is non-conforming as to area, frontage & setbacks. It is a narrow lot that slopes down from the street. The existing house is 1 ½ stories and has approximately 1300 sq. ft. of gross floor area, while the proposed will have two stories and 2300 sq. ft. The proposed height is 32'. Ranalli pointed out that in front it appears to be 31', but in the rear is 36'. Welch informed that Board that the Inspector told him the height conforms, emphasizing that the lot slopes down in the rear. The proposed house is similar to existing, abutting house as to setbacks. Eric Lundstrom, 409 S. Main St., spoke in favor of the design & questioned the boundary between the two lots. Welch offered to have his surveyor & engineer look at the plot plans to straighten out the issue. Anderson noted that the

driveway may encroach over the plot line. Lundstrom informed that Board that it has been there since 1942, unhindered. Anderson suggested that Lundstrom & Welch work out the plot line issue. David Zink, 405 S. Main St. voiced concern over the proposed 15' side setback & the depth of the house relative to the scale of his house because it would obstruct his view. Mark De Francisco, 8 Lavender Hill Ln., abutter to the rear, voiced concern over the steep grade & wetlands at the rear of the lot. Welch stated that they will file with Conservation Commission because the proposed house would be within 100' of the wetlands. He added that they will not change the grading & that his engineer will design roof chambers & an infiltration system. Welch also informed the Board that he met with the neighbors regarding landscape buffering for the right side. Brown asked if they will build up the land around the new house. Welch stated that they will in the front. Anderson asked how much fill would be required to accomplish this. Welch guessed approximately 2-3' of fill would be needed, or 300 cubic yards +/- . Welch offered to have his engineer verify the amount. The Board discussed alternative designs to minimize / eliminate side setback relief requested & the height/massing of the structure. Ranalli voiced concern over the third floor being finished for living area. McDonough made a motion to close the public hearing. Jeton seconded the motion & the Board voted (5-0) to close the hearing. Ranalli stated there are too many concerns with neighbors, wetlands to approve it. Anderson reminded the Board that the existing house is a disaster & the new owner wants to improve it & that with appropriate conditions it could be done. Jeton pointed out that Conservation Commission would deal with drainage. Ranalli suggested continuing the hearing to resolve the issues. Jeton felt that it is in keeping with similar projects in the neighborhood. She suggested looking at the case from 444 S. Main Street and viewing the premises at 407 S. Main St. Jeton made a motion to re-open the hearing. Brown seconded the motion & the Board voted (5-0) to re-open the hearing. Anderson suggested continuing the hearing to December in order to resolve the survey issue, address concerns over the side setback, design alternatives (rotate the house 90°), a drainage report would be helpful, the amount of fill needed (enough engineering is needed to know it won't be a detriment to the neighborhood). He also asked for a 45-day extension beyond the existing clock. Brown suggested they present an alternative proposal that's not any closer to the plot lines than the existing house. Jeton suggested finding the side setbacks of neighboring houses on the same side of the street.

Brown made a motion to approve the 6/12/08 & 10/2/08 minutes. Anderson seconded the motion noting that they be approved with the changes he made to the 6/12/08 minutes. The Board voted unanimously to approve the minutes as amended by Anderson.

At 8:50 p.m. Anderson recused himself from any wireless telecommunication discussion and left the room.

McDonough then explained what had happened earlier in the meeting with Selectman Vispoli regarding Omnipoint: Jeton will be the ZBA representative who, along with Vispoli & Town Manager, will write a response to the letter received from neighbors of the proposed Omnipoint monopole at 14 Prospect Road.

The meeting adjourned at 8:55 p.m.